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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,317	03/06/2002	Carole Guiramand	219736US0	7145
22850	7590	01/05/2006		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER WEBMAN, EDWARD J	
			ART UNIT	PAPER NUMBER

1616

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/091,317	<b>Applicant(s)</b> GUIRAMAND, CAROLE	
	<b>Examiner</b> Edward J. Webman	<b>Art Unit</b> 1616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 2,8,9,11,16,18,20-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,10,12-15,17 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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Applicant's election with traverse of benzimidazole or benzoxazole filters in the reply filed on 8/2/04 is acknowledged. The traversal is on the ground(s) that there is no showing of distinctness and burden. This is not found persuasive because no showing is required. Applicants can overcome the requirement by stating on the record that the species are not patentably distinct. However, an art rejection over one species shall then apply to all.

The requirement is still deemed proper and is therefore made FINAL.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-7, 10, 12-15, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zeligs in view of Tanner et al and Dray (WO98/40074 - US 6,407,084 cited as English equivalent).

Zeligs teaches a composition comprising DHEA (abstract). The free alcohol is specified (column 4 line s 19-20). 0.05-1% DHEA is disclosed (column 5 line 32). Ultraviolet light blocking agents are specified (column 5 lines 38-42).

Tanner et al teach a sunscreen composition comprising a UVA absorbing dibenzoylmethane active (abstract). 0.1-10% is disclosed (column 5 line 9). 2 methyl-5-tert-butyl-4'methoxydibenzoylmethane is disclosed (claim 5). UVB sunscreen actives are further disclosed (column 7 lines 30-59). 2-phenyl-5-benzimidazole-5-sulfonic acid is specified (claim 12).

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It would have been obvious to one of ordinary skill to add a dibenzoylmethane and a benzimidazole to the composition of Zeligs to achieve the beneficial effect of both UVA and UVB absorption in view of Tanner et al. As to 7-OH DHEA, Dray teaches such steroids for treating the cutaneous effects of aging (column 1 lines 4-7, example 1). Thus, it would be an obvious expedient to use this particular free alcohol of DHEA in the composition of Zeligs.

Claims 1, 3-7, 10, 12-15, 17, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dray in view of Tanner et al.

Dray and Tanner et al are described above. Dray further teaches topical vehicles (column 4 lines 50-53).

It would have been obvious to one of ordinary skill to add a dibenzoylmethane and a benzimidazole to the composition of Dray to achieve the beneficial effect of both UVA and UVB absorption in view of Tanner et al. As to the claimed percent range, Dray teaches 0.05-10 mg per application. An optimum percentage can be obtained by routine experimentation.

No claims allowed.

  
EDWARD J. WEBMAN  
PRIMARY EXAMINER  
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